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U.S. Wins WTO Antidumping Case on High Fructose Corn Syrup

WASHINGTON—The World Trade Organization (WTO) Appellate Body has today affirmed a WTO panel's conclusion that Mexico's imposition of antidumping duties on imports of high fructose corn syrup (HFCS) from the United States is inconsistent with the requirements of the WTO Antidumping Agreement. The Appellate Body rejected Mexico's appeal of the panel's decision. The WTO panel had found that the steps Mexico had taken to comply with an earlier adverse WTO panel decision were insufficient.

"We are gratified that the Appellate Body has found in favor of the United States," said U.S. Trade Representative Robert B. Zoellick. "The Appellate Body agreed with our view that Mexico did not establish a basis for reversing the WTO panel's decision."

The Appellate Body's decision is an important win for U.S. agriculture and demonstrates the value of the WTO to U.S. agricultural interests.

Mexico had found that HFCS imports threatened material injury to Mexico's sugar industry. In June, the panel upheld U.S. arguments that Mexico's determination is inconsistent with the Antidumping Agreement. In particular, the panel concluded that the facts did not support Mexico's conclusion that HFCS imports were likely to increase substantially. The panel also ruled that Mexico had inadequately analyzed the likely impact of HFCS imports on the Mexican sugar industry. Mexico appealed the panel's decision on procedural and substantive grounds. The Appellate Body agreed with the U.S. position that the panel's decision should not be reversed.

Background

In January 1998, Mexico's antidumping authority determined that imports of HFCS -- a sweetener used in soft drinks and other products -- from the United States were being dumped in the Mexican market and these imports threatened material injury to the Mexican sugar industry. The United States

requested the formation of a WTO panel to review Mexico's determination.

The WTO Antidumping Agreement allows dumping duties to be imposed only if dumping and injury (including a threat of injury) to the domestic industry are established. The focus of the U.S. challenge was that Mexico's threat of injury analysis was flawed in several respects.

In January 2000, the panel issued its decision. The panel found that Mexico had not properly determined that HFCS imports were likely to increase substantially. The panel also concluded that Mexico had not properly analyzed the likely impact of HFCS imports on the Mexican sugar industry.

In September 2000, the Mexican antidumping authority issued a new determination that purported to comply with the panel's rulings. The Mexican antidumping authority again concluded that HFCS imports threaten the Mexican sugar industry. The United States challenged Mexico's redetermination before a second WTO panel. In June, the panel agreed with the U.S. view that Mexico had failed to cure the flaws already found in its original determination.

Mexico appealed the panel's decision on procedural and substantive grounds, which led to today's issuance of the Appellate Body's report.

The Appellate Body's report is posted on the WTO website (www.wto.org). USTR's brief submitted to the Appellate Body in this case is available at www.ustr.gov/enforcement/briefs.

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